

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 02-0351P
Withholding Tax
For the Period July 2000 through November 2000

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ISSUE(S)

I. Tax Administration – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer was assessed penalty for failing to file and remit its withholding tax by the due date.

I. Tax Administration – Penalty

DISCUSSION

Taxpayer failed to file and remit its withholding tax for several months.

Taxpayer states that the circumstances that forced it to be late with payments were related to the Secretary of State's office processing its application as a foreign corporation. It filed the necessary forms on August 21, 2000. A certificate of good standing from the State of Minnesota was dated July 19, 2000. The state rejected the application on August 28, 2000 because another company in Indiana was identically named. To correct the problem, the taxpayer wrote the word "fictitious" behind its name on the application. Several weeks passed and the taxpayer was rejected again saying it needed a board resolution authorizing the use of the fictitious name. A board resolution was submitted dated November 13, 2000. Taxpayer states it was again rejected on December 4, 2000 because its certificate of good standing from the State of Minnesota had expired. The processing time of its application was beyond its control. Taxpayer further states that it could have met the withholding report deadlines if it had been issued a temporary number.

Taxpayer failed to remit its tax timely and has not provided reasonable cause for its failure. Withholding Tax is a trust tax that could have been remitted and held in escrow.

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The Department finds the penalty appropriate.

FINDING

Taxpayer's protest is denied.

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